

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Scott C. Harris

Group Art Unit 2876

Appl. No. : 10/714,097

Filed : November 14, 2003

For : BARCODE DATA ENTRY
DEVICE

Examiner : D. I. Walsh

Applicant's Brief on Appeal

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant herewith files this appeal brief under 37 CFR 41.37, thereby perfecting the notice of appeal which was originally filed on June 21, 2006. No extension fees are necessary, since this appeal brief is being filed within two months of the notice of appeal.

The sections required by 37 CFR 41.37 follow:

Real Party In Interest

The inventor, Scott C. Harris, is the real party in interest.

Appl. No. : 10/714,097
Filed : November 14, 2003

Related appeals and interferences

There are no known appeals and/or interferences

Status of claims

Claims 18, 19, 28-31, and 38-41 are being appealed in this case. Claims 1 and 7-16 are withdrawn. Claims 2-6 and 17 have previously been canceled. Claims 20-27 have previously been canceled. Claims 32-37 are withdrawn. Claims 42, 43 are canceled. Claims 44-47 are withdrawn.

Status of amendments

An amendment after final was filed on June 21, 2006 in order to cancel claims 21-23 and 42, and thereby obviate the rejections to those claims.

Summary Of Claimed Subject Matter

Claim 18 defines forming a communication, see page 8 lines 6-7.

Claim 18 further defines obtaining an image of a barcode that is associated with an advertisement. Page 4 line 2 describes that the input device can obtain an image of the barcode. Page 5 lines 10-13 explain that this allows the digital camera device to become a barcode scanner. The embodiment of figure 4, described page 8 lines 4-14 describes that this barcode can be an advertisement.

Claim 18 describes sending the information from the barcode to a publicly available database, see page 8, lines 21 through page 9 line 2.

Appl. No. : 10/714,097
Filed : November 14, 2003

The more detailed information is then returned and displayed, see page 9 lines 18-22.

Claim 19 requires forming a communication, see page 8 lines 6-7.

The portable device is used to obtain an image of a barcode associated with an item for sale, see page 18 lines 4-14.

The data is sent to a remote database, see page 8 line 21 through page 9 line 2.

Information that a supplemental is received from the remote database, see page 9 lines and 18-22.

Claim 38 defines using a portable device with a camera to obtain an image of a barcode. See page 8 lines 15-18. Information in the barcode is decoded, see page 8 line 18. The information from the barcode is used to access a web site that is addressed based on the information, see for example page 9 lines 1-2 and lines 11-17.

Grounds Of Rejection To Be Reviewed On Appeal

The grounds of rejection to be reviewed on appeal are:

is claim 18 properly rejected based on Hudetz

(Even though claims 19 and 38-40 were not explicitly rejected in the Examiners rejection number 5, it is presumed that these claims are also rejected based on Hudetz.)

Are claims 28-29 and 41 properly rejected based on Hudetz in view of Paul.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Is claim 30 properly rejected over Hudetz in view of Paul and Lemelson.

Is claim 31 properly rejected over Hudetz in view of Paul and Kaufman.

Are claims 19 and 38 properly rejected as being obvious over Tracy.

Are claims 28-29 and 41 properly rejected over Tracy in view of Paul.

Is claim 30 properly rejected over Tracy in view of Paul in view of Lemelson.

Is claim 31 properly rejected based on Tracy in view of Paul and further in view of Kaufman.

Arguments

Claims 18, 19 and 38 are apparently rejected based on Hudetz for obviousness. This rejection is incorrect, and, with all due respect, ignores certain claim limitations.

Taking claim 18 as initially being representative, it should be noted that claim 18 includes the important limitation that a portable device with a camera and a display is used "to obtain an image of a barcode that is associated with an advertisement". This is not shown by Hudetz, and not obvious from Hudetz. In fact, the rejection admits that this is not shown in Hudetz.

Page 4 of the official action, second paragraph from the bottom, admits that Hudetz is silent that the barcode reader is an imaging device. In fact, Hudetz teaches a

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

conventional barcode reader. It does not teach using a portable device with a camera and a display "to obtain an image of a barcode that is associated with an advertisement".

The rejection alleges that "different types of barcode readers... are well-known and conventional in the art". However, this uses hindsight in the rejection and ignores the specific claim language. The claim requires not just an imaging device, but also that the imaging device obtains an image of the barcode. Even if the same devices are used for barcode detection as are used for imaging (CCDs for example), there has been no showing that these devices obtain an image of the barcode.

The paragraph bridging pages 4-5 states that this is well-known and conventional. Applicants respectfully traverse this statement, which is not supported by ANY evidence from the prior art. Prior to the date of this application, nobody ever suggested using a portable device with a camera and a display to obtain an image of a barcode. Barcodes were conventionally imaged by barcode readers. With all due respect, the statement that it is conventional to use different kinds of hardware as barcode readers does not render obvious the specific subject matter of claim 18 which requires using a device that has a camera and the display unit therein to obtain AN IMAGE OF a barcode. Hudetz teaches nothing about obtaining an image of a barcode. This is completely based on hindsight.

Claim 19 includes an analogous limitation of using a portable device with a camera and display therein to obtain an image of a barcode. As described above, this is not taught or suggested by Hudetz.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Claim 18 defines using a portable device with a camera to obtain an image of a barcode, and decoding information in the barcode. With all due respect, nothing in the cited Hudetz prior art teaches anything about obtaining an image of this type and decoding information from the image of the barcode. The rejection is based wholly on hindsight, since there is no teaching or suggestion of doing this in the Hudetz reference. In fact this much has been acknowledged by the rejection.

Hence, these claims should be allowable over Hudetz along with the claims that depend therefrom.

Claims 19 and 38 are alternatively rejected based on Tracy. Again, however, the rejection admits that Tracy is "silent to a camera imaging means for reading barcodes". The rejection alleges that cameras for reading barcodes are well-known and conventional in the art. This contention is respectfully traversed. Each of these well-known items use techniques to detect distances between lines, rather than obtaining AN IMAGE of a barcode, as claimed. In fact, the rejection alleges so-called well-known prior art, but with all due respect, no such prior art exists.

In fact, the prior art has absolutely no teaching or suggestion of using a camera to obtain an image of a barcode and decode that image. The teaching of doing that comes from the present application, not from the prior art. Therefore, and for all of these reasons, it is respectfully suggested that the rejection reads more into the prior art that is actually taught or suggested. Moreover, the mere fact that bar coding scanning and decoding devices use camera based devices -- does not equate to taking images of the barcode. The patent office has simply not established that such devices take images of the barcode, in fact, the patent office has admitted that these devices do not

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

do that. The mere statement that these are well-known in the art cannot be taken as prior art. With all due respect, the patent office has failed to meet their burden of providing a prima facie showing of unpatentability.

For all of these reasons, the rejection does not meet the patent office's burden of providing a prima facie showing of unpatentability, and should hence all these rejections should be reversed.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Respectfully submitted,

Date: _August 21, 2006

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Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Claims appendix

1. (Withdrawn) A method comprising:
Scanning a bar code with a first scanner to obtain first information; and
Scanning said bar code with a second scanner, different from said first scanner, to obtain second information, different than said first information; and
decoding the bar code to obtain information about personal identification therefrom, in a base N format, where N is at least 80% of the capability of all digits of the bar code.
7. (Withdrawn) A method comprising:
obtaining personal identification information,
converting said personal identification information to a string of digits of base N, where N is greater than 10;
forming a bar code representing said base N number; and
using said bar code to represent said personal identification information.
8. (Withdrawn) A method as in claim 7, wherein said bar code is in a specified format that uses at least eighty percent of the available digits of said bar code in said base N number.
9. (Withdrawn) A method as in claim 7, wherein said converting comprises converting to a form which uses all numbers, and at least some letters representing base N numbers greater than 10.
10. (Withdrawn) A method as in claim 7, wherein said personal identification information includes an address to be used to look up additional information.
11. (Withdrawn) A method as in claim 10, wherein a first part of the bar code includes actual personal identification information, and a second part of the bar code includes an address to look up additional characteristics.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

12. (Withdrawn) A method as in claim 11, wherein said second part of the bar code is a linear bar code and said first part of the bar code is an additional part.

13. (Withdrawn) A method as in claim 12, wherein said additional part is a two dimensional part.

14. (Withdrawn) A method as in claim 12, wherein said additional part is a color or grayscale part.

15. (Withdrawn) A method as in claim 7, wherein said personal identification information is a picture.

16. (Withdrawn) A method as in claim 7, wherein said personal identification information is dynamic information about the way that the user takes some action.

18. A method of forming a communication, comprising:
Using a portable device with a camera and a display unit therein, to obtain an image of a bar code that is associated with an advertisement;
sending information indicative of the bar code to a remote database; and
receiving and displaying, on said portable device, more information about said advertisement from said remote database.

19. A method of forming a communication, comprising:
Using a portable device with a camera and a display unit therein, to obtain an image of a bar code that is associated with an item for sale;

sending information indicative of the bar code to a remote database; and
receiving and displaying, on said portable device, information that is
supplemental to said item for sale, which information is received from said remote
database.

28. A method as in claim 18, wherein said bar code is a dual type bar code,
with a first part that is interpreted by a first bar code scanning process to obtain first
information and a second part which is interpreted by a second bar code scanning
process to obtain second information that has more information than first information.

29. A method as in claim 28, wherein said first part is a linear bar code and
said second part is a non-linear bar code.

30. A method as in claim 28, wherein said first process is a scan in a first
direction and said second process is a scan in a second direction.

31. A method as in claim 28, wherein said second part is one of grayscale or
color of the bar code.

32. (Withdrawn) A method of reading a bar code, comprising:
using a camera in a consumer device to obtain an image of a person at a first time;
using the same camera in said consumer device to obtain an image of a bar code at a second
time; and
using a processor in said consumer device to automatically decode contents of said bar code.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

33. (Withdrawn) A method as in claim 32, wherein said consumer device is a cellular telephone.

34. (Withdrawn) A method as in claim 32, wherein said consumer device is a portable computer.

35. (Withdrawn) A method as in claim 32, wherein said decoding comprises determining a first portion of the bar code in a first linear bar code format, and determining a second portion of the bar code which is in a second format different than said linear format.

36. (Withdrawn) A method as in claim 35, wherein said second format is a two-dimensional format.

37. (Withdrawn) A method as in claim 35, wherein said second format includes information in the color of the bar code.

38. A method comprising:
using a portable device which includes a camera therein to obtain an image of a bar code;
decoding information in the bar code to obtain information from the bar code;
and
using said information to access a web site from said portable device, that is addressed based on said information.

39. A method as in claim 38, wherein said bar code is a two-dimensional bar

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

code.

40. A method as in claim 38, wherein said bar code is a three-dimensional bar code.

41. A method as in claim 38, wherein said bar code includes different parts which include different information, one of said parts including said information to access the web site.

44. (Withdrawn) A barcode comprising:
a series of portions encoded to represent information, wherein said information includes a Web address that can be used to access an Internet web site.

45. (Withdrawn) A barcode as in claim 44, wherein said series of portions is within an e-mail.

46. (Withdrawn) A barcode as in claim 44, wherein said series of portions is within an advertisement.

47. (Withdrawn) A barcode as in claim 44, wherein said series of portions is encoded with the first amount of information in a single direction, and with a second amount of information when read in multiple directions.

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Evidence appendix

None

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Related proceedings appendix

None